

REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-3 and 5-32 are pending in the application.

Claims 1, 2, 3, 5 and 7-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lowe et al. in view of Huang. Applicants respectfully traverse this rejection.

Lowe et al. discloses an RF transponder 28. As described in Lowe et al., the RF transponder does not include a power source. Instead, power is received from the exciter/receiver. The power source described in Huang would not be useful or combinable with Lowe et al. The device in Huang is directed to a tire pressure indicator, not to a transponder system for reporting the distance traveled by a vehicle. The Examiner has not pointed to any teaching in either Lowe et al. or Huang for making the proposed combination. There must be something more than hindsight to make the combination.

As the Federal Circuit noted in In re Oetiker, 24 U.S.P.Q. 2d 1443, 1445 (Fed. Cir. 1992):

“[p]atent examination is necessarily conducted by hindsight, with complete knowledge of the applicant’s invention, and the courts have recognized the objective aspects of determining whether an inventor would reasonably be motivated to go to the field in which the Examiner found the reference, in order to solve the problem confronting the inventor.”

The Examiner has not shown, nor could he, that a person of ordinary skill, seeking to solve the problem of providing a power source to an RF transponder would look to Huang to provide the power source. The combination of elements from non-analogous sources, in a manner that reconstructs the Applicants’ invention only with the benefit of hindsight, is insufficient to present a prima facie case of obviousness. Accordingly, the obviousness rejection should be withdrawn.

Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Lowe et al. in view of Huang and further in view of Miller et al. Applicants respectfully traverse this rejection. Lowe et al. and Huang are not combinable for the reasons discussed above. Further, Miller et al. does not overcome the deficiencies of Lowe et al. and Huang. Further, the Examiner has again used hindsight in combining Miller et al. with the combination of Lowe et al. and Huang. Miller et al. is directed to a vehicle blind spot detector and not directed to measuring distance travel.

The reasons for using an acoustic signal are not the same in the present invention as they are in Miller et al. Accordingly, the obviousness rejection of claim 6 should be withdrawn.

Claims 11, 12, 15-18 and 21-32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lowe et al. in view of Davis et al. Applicants respectfully traverse this rejection.

Lowe et al. discloses a system for reporting the distance traveled by a wheeled vehicle, without having to manually read an odometer. Rotation sensor and a transponder are mounted on the wheel of the vehicle whose driving distances are to be determined. Thus, when a rental vehicle is returned, the distance traveled by the vehicle can be determined (column 1, lines 13-17). Davis et al. discloses an automobile navigation system. The Examiner has offered no motivation for combining the transponder system of Lowe et al. with a navigation system, such as Davis et al. Nor is it clear how the Examiner's proposed combination would meet the claim limitations. As argued in a previous Amendment, Davis et al. does not utilize a wireless signal for determining the displacement of the vehicle. The position keeping (dead reckoning) system of Davis et al. does not utilize wireless signals. In fact, in Davis et al., the navigation system must be connected to the odometer in order to obtain vehicle displacement or for the position keeping system. This is exactly the problem that the present invention is trying to overcome because it is very difficult and time consuming to connect a navigation system to the vehicle odometer. Position finding system (such as a GPS system) and Davis et al. utilizes a wireless signal. However, it is completely different from the wireless signal utilized in Lowe et al. The wireless signal in Lowe et al. cannot be utilized for position finding (as that term is used in Davis et al.), i.e., the wireless signal in Lowe et al. could not be used as a GPS signal. Therefore, the device of Lowe et al. could not be combined in the Davis et al. system. Therefore, the rejection should be withdrawn.

Regarding claim 23, it would not be obvious to include the transponder of Lowe et al. in the Davis et al. navigation system, because Davis et al. is already obtaining displacement information from the vehicle odometer. For the reasons discussed above with respect to claim 11, the obviousness rejection should be withdrawn.

The remaining claims dependent on either claims 11 or 23 recite additional, important limitations, and are patentable for the reasons discussed above with respect to the independent claims as well as on their own merits.

Claim 13 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Lowe et al. in view of Davis et al. and further in view of Huang. As discussed above, Lowe et al., Davis et al. and Huang are not combinable and thus claim 13 is allowable over this combination of references. Accordingly, the obviousness rejection should be withdrawn.

Claim 14 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Lowe et al. in view of Davis et al. and further in view of Miller et al. Applicants respectfully traverse this rejection.

As argued previously, Maples could not be utilized in combination with Lowe et al. and Davis et al. Maples discloses a simple motion detector for use in the transmitter of the vehicle keyless entry system. When motion is detected, the keyless entry system transmits its coded signal to obtain entry to the vehicle. Thus, when the driver is at risk, the transmitter circuit can be turned off, thus reducing power of consumption. Although the Maple system discloses a movable mask, it is unclear how this can be incorporated into the Lowe et al. device or how it can be utilized to calculate vehicle displacement. Accordingly, the obviousness rejection should be withdrawn.

Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Lowe et al. in view of Davis et al. and further in view of Maples and Miller et al. Applicants respectfully traverse this rejection.

As argued previously, Lowe et al., Davis et al., Maples and Miller et al. cannot be combined as contended by the Examiner. Each reference is directed to different problems and accordingly, only upon utilizing hindsight can the invention be obtained from this various combination of references. Accordingly, the obviousness rejection should be withdrawn.

Claim 19 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Lowe et al. in view of Davis et al. and further in view of Maples (U.S. Patent No. 4,833,281). Applicant respectfully traverses this rejection.

Claim 19 is dependent on claim 11. Davis et al. and Maples do not overcome the deficiencies discussed above with respect to Lowe et al. Accordingly, the obviousness rejection should be withdrawn.

Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Lowe et al. in view of Davis et al. and further in view of Maples and Miller et al. (U.S. Patent No. 4,694,295).

Claim 20 is dependent on claim 19. Davis et al., Maples and Miller et al. do not overcome

the deficiencies discussed above with respect to Lowe et al. Accordingly, the obviousness rejection should be withdrawn.

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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